

Docket No.: 111828.120US1

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*02/05/2001*  
**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

SMITHIES et al.

Serial No. 09/805,196

Filed: March 14, 2001



Group Art Unit:

Examiner:

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For: METHOD AND SYSTEM FOR RECORDING EVIDENCE OF ASSENT

TRANSMITTAL OF CERTIFIED PRIORITY DOCUMENT

Honorable Commissioner for Patents  
Washington, D.C. 20231

Sir:

At the time of filing the above-identified application, a claim was made to the priority date of September 14, 2000, of the corresponding Patent Application in the United Kingdom No. 0022498.0. We now submit the priority document in support of this Claim of Priority. Acknowledgement is respectfully requested.

Respectfully submitted,

HALE AND DORR LLP

*Victor F. Souto*

*by: Anthony Kehring*

Victor F. Souto

Registration No. 33,458

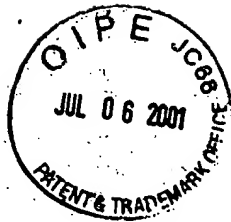
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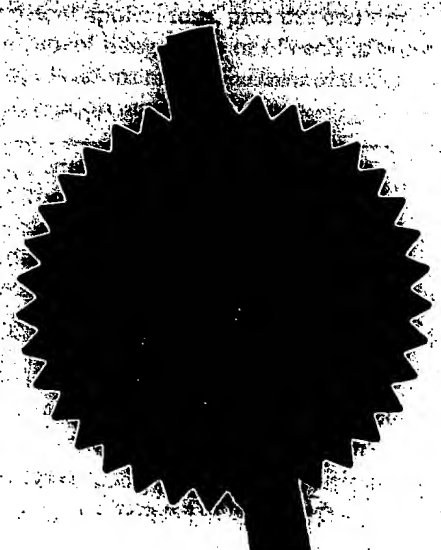
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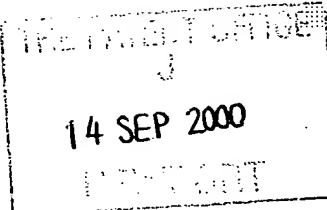
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0022498.0

3. Full name, address and postcode of the or of each applicant (underline all surnames)

CPK SMITHIES  
18 PINE ROAD  
CORFE MULLEN  
WIMBORNE  
BH21 3DW

14SEP00 E568122-1 066255  
P01/7708 0 00 0022498.0  
J M NEWMAN  
11 SHEPPARD'S BARTON  
FROME  
BA11 1EL

Patents ADP number (if you know it)

If the applicant is a corporate body, give the country/state of its incorporation

04979974001

07979990001

4. Title of the invention

METHOD AND SYSTEM FOR RECORDING EVIDENCE OF ASSENT  
IN ELECTRONIC TRANSACTIONS

5. Name of your agent (if you have one)

"Address for service" in the United Kingdom to which all correspondence should be sent (including the postcode)

CPK SMITHIES  
18 PINE ROAD  
CORFE MULLEN  
WIMBORNE  
BH21 3DW

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6. If you are declaring priority from one or more earlier patent applications, give the country and the date of filing of the or of each of these earlier applications and (if you know it) the or each application number

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Priority application number  
(if you know it)

Date of filing  
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7. If this application is divided or otherwise derived from an earlier UK application, give the number and the filing date of the earlier application

Number of earlier application

Date of filing  
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8. Is a statement of inventorship and of right to grant of a patent required in support of this request? (Answer 'Yes' if:

NO

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Date

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# **METHOD AND SYSTEM FOR RECORDING EVIDENCE OF ASSENT IN ELECTRONIC TRANSACTIONS**

## **Field of Invention**

The present invention relates to the field of computer systems for electronic and automated commerce. It provides a means whereby evidence of a party's assent to a transaction may be recorded and subsequently made available to the relying parties by manual or automatic means. It further provides a means whereby evidence of assent to a transaction may be automatically transmitted to the relying parties.

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## **Background of the Invention**

In order for a contract to exist between two parties, there must be intent to enter into reciprocal obligations, agreement as to the nature of those obligations, and assent thereto. Evidence of assent includes evidence of oral conversation, complete or partial fulfilment of those obligations, and formal acts of signing written statements.

Historically, the greater part of commerce was conducted face-to-face. Most contracts were effected orally, and evidence of assent was obtained from human witnesses. Longer-range contracts would more typically be effected on paper. In this case, the solemn affixing of a seal or a handwritten signature would constitute physical evidence of a solemn act of assent to the terms of the contract. In particularly solemn situations, an independent third party – a notary – would likewise attest his observation of the solemn act, further strengthening the evidence.

With the advent of modern telecommunications, commercial entities increasingly operate on a national or international basis, and therefore in the course of business rely upon contracts with increasingly many parties, often over an ever wider geographical area. However, the development of large-scale commerce has not yet accommodated the need to gather and preserve evidence of assent. Therefore, in the case of written contracts for example, evidence of assent (the handwritten signature) has typically been handled by means of the nineteenth century postal system; and while many telephone services have made use of voice recording apparatus, no system has yet been produced which makes that evidence readily available to all the parties involved, nor which offers the potential impartiality of a third-party human witness or notary.

In recent years, attempts have been made to address the problem in the electronic commerce domain. Early attempts to address the lack of a signature focused on the issue of the identity of the contracting party. So, for example, the so-called digital signature system relies on the association of secret information with a particular individual or entity. In order to digitally sign a message, one must be in possession of a secret encryption key. Whereas it can be proved that a message cannot be signed without possession of the secret, the mere existence of a digital signature does not of itself provide any evidence that the secret was not divulged or in some other way compromised. Some proponents of the digital signature system seek to strengthen it by

adding a biometric check, so that in order to gain access to the secret encryption key, an individual must have the specific physical or behavioural attributes of the authorized signatory.

However, such attempts must fail, in that they do not address the more fundamental issue of assent: the existence of a digital signature, however inviolably bound to the authorized person or entity, still does not provide evidence that the party assented to or even understood the content of the signed message. In order to provide this, the system must provide evidence that the party had been acquainted with the import of the message to be signed, and further that the signing act itself was one which the party can reasonably be presumed to understand as symbolizing assent.

For example, Smithies & Newman proposed a system whereby handwritten signatures could be created and communicated within the electronic domain in the context of a display summarizing the import of the message to be signed (See US Patents 5544255, 5647017, 5818955 and 6064751). The proximity of the statement of intention, and the conventions surrounding the execution of a handwritten signature, provide good evidence of assent to the contents of the signed message.

Subsequently, Smithies *et al.* (US Patent 6091835) described a system whereby a computer console could be used to direct and notarize a solemn procedure during which the import of the message could be brought to the attention of the user of the system and his compliance with the procedure recorded by the system.

However, such systems are by their nature limited to transactions which are expressed in electronic form. Nor do they provide means whereby all the parties can obtain an evidential record of the act of assent.

Moreover, all forms of electronic signing proposed to date suffer from the important defect that they are bonded to a specific digital embodiment of the signed data. A conversion of the signed data from one electronic format to another (as frequently occurs as a result of software upgrades) will invalidate an electronic signature without necessarily changing the meaning of the data. The present invention obviates this difficulty by preserving the evidence in a form which is collateral to, but independent of, any digital manifestation of the subject matter of the declaration. In essence, the evidential link is formed by the meaning of the utterance of the speaker rather than by some mathematical connexion between two sets of digital data.

### **Summary of the Invention**

The present invention not only addresses the shortcomings of the above inventions, but also provides a means whereby business-to-consumer Internet transactions can be protected by openly accessible, secure forensic evidence.

The present invention presents a method and system whereby a party may affirm a document, transaction or action by making a telephone call and recording a statement of his intention with regard to that document, transaction or action.

Essentially, the system is primed to expect a telephone call from the affirming party. The system automatically answers the telephone call, receives from the affirming party a unique code identifying the document, transaction or action, and then makes a recording of an oral statement of affirmation from the affirming party, which recording is then archived and made available to interested parties.

One typical example of the use of the system would be in connexion with a contract of sale between vendor and customer. The vendor will prepare the contract while the customer is cast in the role of affirming party,



The vendor negotiates with the system to use a unique code (say, a number) which will identify the parties and the specific transaction – here, a contract of sale. The system will store this identifier pending a telephone call from the affirming party – here, the customer.

The vendor then independently sends the customer a message summarizing the contract of sale together with the unique code number, which the customer is invited to use when telephoning to confirm acceptance of the terms of the contract.

If the customer chooses to affirm the contract, he makes the telephone call as invited. The system answers automatically and prompts the customer to enter the unique identification code – for example, by reading the digits of the identification number, or by using the keypad of the telephone. Once the answering system has received the identification number, it then prompts the customer to record the declaration or summary statement affirming his assent. In this example, the customer might recite a brief statement of the goods ordered and the sum of money he agrees to pay. When the recording is complete, the system may offer the customer the ability to review the recording and give him the opportunity to cancel, re-record or confirm the recorded statement. If the recording is confirmed, then the answering system provides the customer with a reference number by means of which the recording may be retrieved from the archives of the answering system. The answering system also transmits the reference number to the other relying party – here, the vendor – notifying them of the affirmation, so that they too may retrieve the recording of the affirming statement. Finally, the answering system archives the recording for later recall in case of dispute.

Naturally, the system is of broader application than to commercial vendor/customer contracts. For example, it may be applied to statutory declarations accompanying electronic tax payments. In general, the system may be applied in any case where a party requires forensic evidence of assent or intent by another party.

However, for the purposes of clarity, the party requiring the declaration will henceforth be designated the “Vendor” and the party making the affirmation the “Customer”.

### **Description of the Drawings**

Figure 1 represents a vendor [1], the recording service [2] and a customer [3]. The vendor [1] interacts with the customer [3] via direct mailing, e-mail or a web page.

Figure 2 shows the customer [3] contacting the recording service [2] via telephone, entering a unique identifier and recording a statement of intent.

Figure 3 shows the recording service [2] returning notification of the recording of the statement of intent to both the vendor [1] and the customer [3].

Figure 4 shows an example screen prompting a customer to contact the service [2] and make a declaration.

Figure 5 shows an example screen displayed to the customer after a declaration has been recorded, notifying him of the Recording Retrieval Identifier for immediate or subsequent retrieval.

Figure 6 shows an example screen displayed by the Service to facilitate the subsequent retrieval of a recording. It shows fields for the input of the Recording Retrieval Identifier and the party's e-mail address.

### **Detailed Description of the Invention**

In its preferred embodiment, the system operates in five phases.

In the first phase, the requesting party or vendor [1] contacts the recording service [2] to obtain one or more unique transaction identifiers.

In the second phase, the vendor [1] initiates the transaction by sending a message to the recording service [2], specifying the vendor's ID, a unique transaction identifier and (optionally) a unique customer identifier. The recording service [2] checks the validity of the unique transaction identifier and if it is found valid, the service [2] then prepares to receive an incoming call with that identifier.

In the third phase, the customer or affirming party [3] is prompted to continue the process by telephoning the recording service [2] and presenting the unique transaction identifier. In the case of an internet transaction, a web page such as that depicted in Figure 4 might be used; whereas in the case of a paper transaction, essentially similar instructions can be presented on paper. The service responds to the call by initiating a speech recording mechanism. The customer may signal the completion of the recording by pressing a touch-tone key on his telephone, or a key on his computer keyboard; alternatively, the system may determine the completion of the recording automatically after a period of silence has elapsed. The service [2] may then present the customer [3] with a menu permitting re-recording, aborting the transaction or allowing it to proceed to completion.

In an alternative embodiment, the third phase may be implemented by means of a microphone attached to the customer's Internet terminal. In this case, the interaction with the recording service [2] will be initiated by activating a user interface component on the Internet terminal screen, or by an appropriate keystroke on the terminal keyboard, or by appropriate voice-activation commands to the Internet terminal. Completion of the recording and subsequent interaction will likewise be indicated by means of a keystroke or by activating a user interface component on the Internet terminal screen.

In the fourth phase, after successful completion of the recording by the customer [3], the recording service [2] stores a digital encoding of the sound recording, together with the IDs of the parties and a time-stamp, using a unique identifier as an index for subsequent retrieval of the

recording. This unique identifier is known as a Recording Retrieval Identifier (RRI). It then sends a message to the vendor [1] indicating that the customer [3] has completed the recording, and providing the RRI by which the vendor [1] may obtain a copy of the sound recording. The recording service [2] also communicates to the customer [3] an RRI to retrieve a copy of the same sound recording. In the case that the customer [3] is using an Internet terminal, the service may present the customer [3] with a web form such as that in Figure 5, which gives him the option of obtaining a copy of the recording immediately, or alternatively documenting the RRI to enable retrieval in case of subsequent dispute. Alternatively, if the customer [3] is interacting solely by telephone, the service will dictate the RRI to the customer.

Subsequently, in the fifth phase, an Internet message specifying the second unique identifier can be used to retrieve the archived voice recording, for example by means of a web form such as that depicted in Figure 6.

In its preferred embodiment, the system maintains a plurality of databases in order to effect the foregoing phases of operation:

1. The Vendor Database, which contains identifier and contact information in respect of each vendor, together with information about valid transaction identifiers.
2. The Pending Transaction Database, storing unique identifiers issued to vendors but not yet activated.
3. The Transaction Database, providing information about each transaction to be affirmed and the parties thereto.
4. The Customer Database: this is optionally present, and exists to contain identification information about affirming parties [3], for the purpose of verifying their identity, and also to store customer contact details.
5. The Recording Archive, which is a database of archived voice recordings.

We will now consider each of the five phases in further detail, considering how they interact with the databases comprised within the system.

In the first phase, the vendor [1] requests the issue of one or more unique transaction identifiers. The request will contain at least the following:

- Identifier of the vendor
- Requested quantity of transaction identifiers

The message may also include integrity check data such as the vendor's digital signature.

The service [2] allocates a set of identifiers and enters corresponding records into the pending transaction database. It responds to the vendor [1] indicating:

- First identifier issued
- Number of identifiers issued
- Request status (e.g. success or reason for failure).

In the second phase, the vendor [1] initiates the process by means of an Internet message to the recording service [2]. This message will contain at least the following information:

- Identifier of the vendor
- Unique transaction identifier granted to the vendor
- Optionally, unique identifier of the affirming party

The message may also contain a globally unique identifier of the affirming party, biometric verification information, information as to the content of the affirmation, and integrity check data such as the vendor's digital signature.

The service [2] will then consult the vendor database to verify the vendor's access to the system, and the Pending Transaction Database to verify the transaction identifier. To be valid, the requested transaction identifier must be present in the Pending Transaction Database. If it is not valid, the service [2] will send an error response to the vendor [1]. Otherwise, the service [2] will delete the record from the pending transaction database and then enter a new record into the transaction database, linking it to the appropriate record of the vendor database by means of the vendor's unique transaction identifier. This record will be retrieved when the affirming party [3] affirms.

When the customer [3] contacts the system, he is invited to enter the unique transaction identifier. The system may be contacted in a number of different ways. In one embodiment, the system receives a voice telephone call which is answered by an automatic answering system which prompts the caller [3] to enter the unique transaction identifier by means of DTMF tones or by means of speech. In another embodiment, the system is contacted over the Internet via a web browser, and the affirming party [3] is prompted to enter the unique transaction identifier by means of a web form.

In both cases, the system [2] then invites the caller to record a statement of affirmation. The speech is recorded either via the telephone system or via a microphone attached to the affirming party's Internet terminal. The caller [3] may indicate that the recording is complete by sending a DTMF signal in the case of telephone access, or by activating a control on the web page in the case of Internet access. The system may give the caller the option of confirming the recording, re-recording it, or abandoning the process. In the latter event, the system [2] simply discards the recording. If, however, the caller [3] confirms the recording, then a new record is entered into the affirmations archive. This record contains the voice recording itself and also vendor identification information obtained from the transaction database. The new record is indexed with a unique identifier by means of which it can be retrieved.

This identifier is notified to the caller [3]: in the case of telephone contact, the identifier is dictated to the caller [3], while in the case of internet access the identifier may be displayed by means of an internet message causing display of the identifier upon the caller's Internet terminal.

The identifier is notified also to the vendor [1], for example by means of an e-mail message. Transmission of this message to the vendor [1] signals to the vendor that the caller [3] has confirmed the transaction, and also that a record of the caller's spoken affirmation is available. The vendor may then access the system [2] to retrieve the record from the archive.

In one embodiment, the system [2] presents an Internet web form wherein an e-mail address and a unique identifier may be entered for the purpose of retrieving a record from the archive. Upon submission of a valid identifier, the system then transmits to the designated recipient via e-mail a data file containing the corresponding archived voice recording.

The system described above admits certain alternative embodiments. For example, a particular vendor [1] may be identified by means of a unique telephone number or contact point: in this case, the system [2] may be tailored specifically to the vendor. Alternatively, telephone technology may be introduced whereby the customer [3] can contact a multi-vendor system [2] by means of a special numeric sequence prefixed to the vendor's telephone number. In this case, the foregoing design would admit of certain simplification. In particular, means other than the Pending Transaction Database could be employed to ensure uniqueness of transaction identifiers.

Further, while it is essential that unique information be received from the customer [3] in the third phase, such information may be gathered without the need to provide the customer [3] with a unique identifier. For example, a vendor [1] may send an identical document to many different customers [3], identified by a unique document number. The system [2] may be adapted to gather unique caller identification (e.g. by means of telephonic Caller Line Identification) so that a transaction may be uniquely identified without recourse to a Transaction Database or a Pending Transaction Database. A system [2] simplified in this way could nevertheless take advantage of a Customer Database to retain contact details for customers [3].

The system described above could also be embodied by a human staff as opposed to a fully automated system without any essential change to the method of affirmation herein described. Likewise, an analogue voice recording system could be employed in lieu of or in addition to a digital one.


The system described above is susceptible of certain improvements. *Inter alia*, a voice biometric mechanism may be used to detect the authenticity of the voice of the caller [3] and information on the closeness of the match between the live voice and a previously generated biometric profile of authentic speech data could be relayed to the vendor [1] in addition to the RRI notification in the fourth phase.

Further, a speech recognition system could be employed to verify the closeness of the oral affirmation to the text communicated to the customer [3] in the third phase, again with notification to the vendor [1] in addition to the RRI notification in the fourth phase. Again, this speech recognition function could be performed by a human operator.

## **Claims**

What is claimed is:

1. A voice recording system for the purpose of gathering evidence of assent to a proposition, wherein:
  - a) the recording is initiated by the communication of an identifier;
  - b) the system associates the transaction with a previously identified recipient;
  - c) upon successful completion of the recording, the system notifies the previously identified recipient that the recording has been completed;
  - d) upon successful completion of the recording, the system stores the said recording;
  - e) upon successful completion of the recording, the system publishes an identifier whereby the stored recording may be retrieved.
2. The system of claim 1, wherein the recording is initiated by the communication of a unique identifier.
3. A voice recording system for the purpose of gathering evidence of assent to a proposition, wherein:
  - a) the recording is initiated by the communication of an identifier; and
  - b) the recording is stored in association with a unique identifier by means of which the recording may subsequently be retrieved.
4. The system of claim 3, wherein the recording is initiated by the communication of a unique identifier.
5. The system of claim 3, wherein the recording is associated with a requesting party.
6. The system of claim 5, wherein upon completion of the recording, the requesting party receives notification.
7. The system of claim 6, wherein upon completion of the recording a unique identifier is communicated to the requesting party whereby he may retrieve a copy of the said recording.
8. A method of storing evidence of assent to a proposition, wherein a voice recording is initiated by an affirming party communicating a prearranged identifier, and is archived within a retrieval system.
9. The method of claim 8, wherein the prearranged identifier is communicated by means of a paper document.
10. The method of claim 8, wherein the prearranged identifier is communicated by means of an Internet message.
11. The method of claim 8, wherein the text of the affirmation to be made is communicated in conjunction with the identifier to the requesting party.
12. The method of claim 8, wherein the recording is made available to an interested party by means of the supply of a unique identifier.
13. The method of claim 8, wherein an interested party is notified upon completion of the voice recording.

- 
14. A system for storing evidence of assent to a proposition, wherein voice recordings are transmitted to a designated recipient upon input of a unique identifier.
  15. A recording medium storing a computer program for performing the method of claims 8-13.

## **Abstract**

# **METHOD AND SYSTEM FOR RECORDING EVIDENCE OF ASSENT IN ELECTRONIC TRANSACTIONS**

Various means for signing electronic and postal transactions and declarations have been devised. All focus upon the paradigm of the handwritten signature, which is chemically bonded to a paper document and a ritual act symbolic of solemn assent. This invention instead reverts to the fundamental principle behind an enforceable contract or solemn declaration, namely, the existence of forensic evidence of an individual's intent. It proposes a system for making a speech recording of intent in connexion with a postal or electronic communication, archiving this speech recording, and notifying and making it automatically available to interested parties.

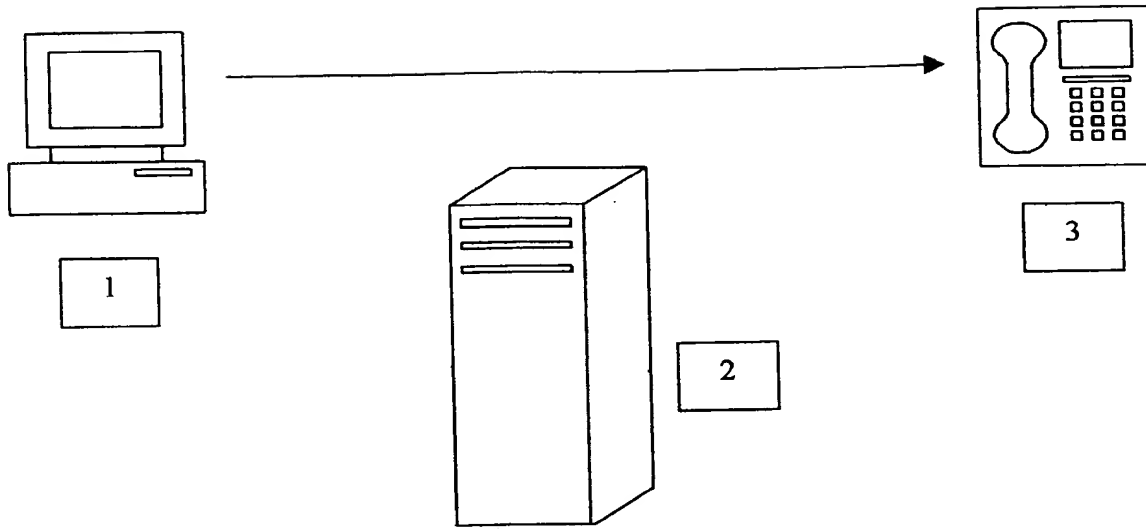
In essence, a party seeking an affirmation will send to the affirming party a communication outlining the terms of the affirmation to be made, and also an identifier by which the proposed system may identify the parties to the transaction. The affirming party will then make voice contact with the system, for example by telephone. The affirming party communicates the identifier, and subsequently recites a spoken affirmation which is recorded by the system. The system then stores the recording in a retrieval system in association with a unique identifier by means of which the recording may be retrieved. Finally, the system communicates this unique identifier, for example by means of an Internet message, both to the affirming party and to the party requesting the affirmation. The requesting party is thus automatically informed that the affirmation has been made.

It is envisaged that this system will satisfy or obviate the need for a signature. The means proposed lend themselves both to postal and Internet contracts and declarations, but will be capable of contributing to the security and forensic admissibility of electronic commerce in the years to come.



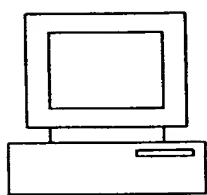


## Drawings

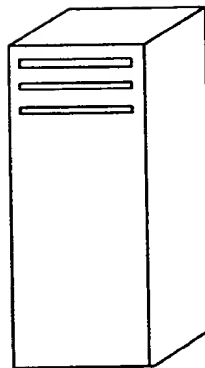


**Figure 1**

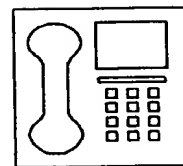
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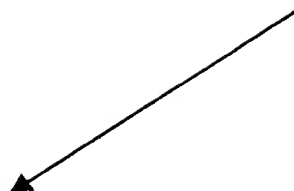
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2

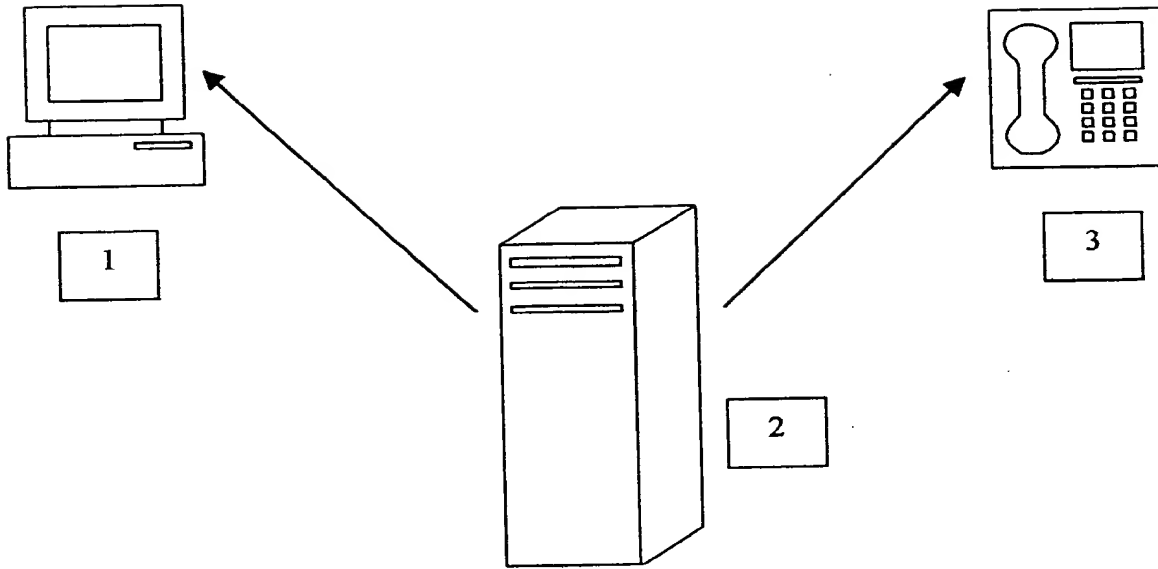


3



**Figure 2**

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**Figure 3**

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Thank you for ordering from Sturdyfurn.com!

To complete your purchase:

3. Telephone **0800 123456**
4. Key (or speak) this number: **9840 1274 3478 2480**
5. Read the following declaration:

**Declaration**

I, John Smith, confirm that I wish to purchase four green plastic garden chairs from Sturdyfurn.com at a price of £45.87 including sales tax and carriage. I authorize Sturdyfurn.com to debit my Visa account 0308 4247 3963 1884 accordingly.

1. Press # to complete, or \* to re-record
2. That's it! Click "Done".



Go back

Cancel Order

Done



Figure 4

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To retrieve it later, make a note of the recording number shown below, and press the "Later" button.

Recording Number

0840 1237 4543 2129

E-mail address:

js@nowhere.net

Retrieve Now

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Figure 5

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Figure 6

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